

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN A. AVERY,

Plaintiff,

v.

Case No. 04-C-986

MANITOWOC COUNTY,
THOMAS H. KOCOURIK and
DENIS R. VOGEL,

Defendants.

ORDER

Plaintiff Steven A. Avery has sued Manitowoc County and its former sheriff and district attorney, under 42 U.S.C. § 1983, for damages resulting from his wrongful conviction and imprisonment for various crimes he did not commit.

Shortly after the case was filed, I notified counsel of the fact that my brother, Michael C. Griesbach, is currently an assistant district attorney for Manitowoc County. Because Michael was not a member of the district attorney staff at the time plaintiff was charged and convicted, it did not appear that this fact would prevent the court from presiding in this matter. I requested that the parties advise me of their positions, however, noting that my brother's connection to the office might give rise to an appearance of impropriety. In response to the notification, counsel advised the court that they also did not believe that my brother's involvement required the court's recusal.

I recently became aware that my brother was deposed in this matter. While that does not mean that he will be a witness at trial, it does appear possible that he could be called to testify at

trial. Given this possibility and also to avoid any appearance of impropriety, I have decided to recuse myself at this time. No trial date has yet been set in the case, and therefore reassignment at this time should not inconvenience any of the parties or another court. On the other hand, if I were to remain on the case and the need to disqualify myself should become apparent later, delay could result. Accordingly, I hereby recuse myself from further involvement in this matter, and the clerk is directed to reassign the case to another judge.

Dated this 26th day of September, 2005.

s/ William C. Griesbach
William C. Griesbach
United States District Judge